

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Section 68.4(a) of the Commission's Rules)	WT Docket No. 01-309
Governing Hearing Aid Compatible)	
Telephones)	
)	
Requests for Temporary Waiver, or)	
Temporary Stay, of Section 20.19(d)(2))	
of the Commission's Rules)	
_____)	

**CONSOLIDATED OPPOSITION OF
TELECOMMUNICATIONS FOR THE DEAF AND HARD OF HEARING,
INC. AND HEARING LOSS ASSOCIATION OF AMERICA TO REQUESTS
FOR WAIVER OF COMMISSION RULE 20.19(d)(2)**

Claude L. Stout
Executive Director
Telecommunications For The Deaf &
Hard of Hearing, Inc.
8630 Fenton Street, Suite 604
Silver Spring, MD 20910

Terry D. Portis, Ed.D
Executive Director
Hearing Loss Association of America
7910 Woodmont Avenue
Suite 1200
Bethesda, MD 20814

Paul O. Gagnier
Jeffrey R. Strenkowski
Bingham McCutchen LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
Telephone: (202) 373-6000
Facsimile: (202) 373-6001

Attorneys for Telecommunications for
Deaf and Hard of Hearing, Inc.

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SUMMARY

In September 2006, numerous small wireless carriers filed petitions asking that the Commission waive or otherwise stay Commission Rule 20.19(d)(2), which requires wireless carriers to provide two hearing aid compatible (“HAC”) handsets by September 18, 2006 (the “Petitions”). The Petitions do not provide an adequate basis for the relief they seek and are not in the public interest. In short, the Petitions fail to show special circumstances that warrant waiver of the Commission’s generally applicable rules and should be denied.

Granting the Petitions without adequate safeguards or other conditions to ensure prompt compliance by the Petitioners would be tantamount to a ruling that Commission Rule 20.19(d)(2) (and, by implication, Commission Rule 20.19(b)(2)) may be ignored. Granting the Petitions will leave no effective mechanism in place to ensure that HAC handsets are available to those persons who need them. Failure to provide HAC handsets by the regulatory deadline discriminates against persons with disabilities, especially given the long phased in timeframes provided to wireless carriers and manufacturers to ensure compliance with the Commission’s rules. For these reasons, the Commission should deny the Petitions.

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I. INTRODUCTION

Telecommunications for the Deaf and Hard of Hearing, Inc. ("TDI"), through its under-
signed counsel, and the Hearing Loss Association of America ("HLAA"), file this Consolidated
Opposition to the petitions recently filed by numerous wireless carriers seeking waiver or stay of
the deadline established in the Commission's Hearing Aid Compatibility ("HAC") rules, set
forth at 47 C.F.R. § 63.19(d)(2).

Specifically, this Consolidated Opposition addresses the petitions for waiver or stay (the
"Petitions" filed by numerous wireless carriers in this proceeding.¹ In the interest of brevity,

¹ Specifically, this Consolidated Opposition addresses the petitions for waiver or stay filed by:
Advantage Cellular Systems, Incorporated ("Advantage"); Airadigm Communications, Inc. ("Air-
adigm"); Blanca Telephone Company ("Blanca"); Brown County MSA, LP, Wisconsin RSA #4, LP,
Wisconsin RSA #10, LP, Wausau Cellular Telephone Company, LP, and Nsighttel Wireless, LLC d/b/a
Cellcom ("Cellcom"); Buffalo-Lake Erie Wireless Systems Co., LLC ("BLEW"); Centennial Communi-
cations Corp. ("Centennial"); CTC Telecom, Inc. ("CTC"); Dobson Communications Corporation
("Dobson"); Farmers Cellular Telephone Company ("Farmers"); Inland Cellular Telephone Company
("Inland"); Iowa 15 Wireless LLC d/b/a Cellular One and Long Lines Wireless LLC d/b/a Long Lines
Wireless ("Long Lines"); Iowa Wireless Services, LLC d/b/a i wireless ("i wireless"); IT&E Overseas,
Inc. ("IT&E"); Leap Wireless International, Inc. ("Leap"); Litchfield County Cellular, Inc. d/b/a Ramcell
of Oregon ("Ramcell of Oregon"); Mid-Tex Cellular, Ltd. ("Mid-Tex"); MTPCS, LLC d/b/a Chinook

TDI and HLAA file this Consolidated Opposition in response to all of the Petitions. TDI and HLAA submit that grant of the Petitions is not in the public interest and urge the Commission to deny all of the petitions. However, should the Commission somehow determine that grant of some of the Petitions is warranted, TDI and HLAA request that the Commission address the Petitions on a case-by-case basis in order to ensure that any relief granted by the Commission is narrowly tailored and appropriately limited in scope.

Given the similarity of the relief requested by the Petitioners, for the Commission's convenience TDI and HLAA have organized the Petitions into three groups for purposes of this Consolidated Opposition: (1) those seeking waivers of less than three months; (2) those seeking waivers of three to five months; and (3) those seeking open ended waivers or waivers of six months or longer.

A. Background on TDI and HLAA

TDI is a national advocacy organization that seeks to promote equal access in telecommunications and media for the 28 million Americans who are deaf, hard-of-hearing, late-deafened, or deaf-blind, so that they may enjoy the opportunities and benefits of the telecommunications revolution to which they are entitled. TDI believes that only by ensuring equal access

Wireless ("Chinook"); Nemont Communications, Inc. ("Nemont"), Sagebrush Cellular, Inc. ("Sagebrush"), and Triangle Communication System, Inc. ("Triangle") (collectively, "Montana Reporters"); North Carolina RSA 1 Partnership ("NCR1P"); North Dakota Network Co. ("NDNC"); Northwest Missouri Cellular Limited Partnership ("NWMC"); NTCH, Inc. and IAT Communications, Inc. and its operating subsidiaries, NTCH-CA, Inc., NTCH-IDAHO, Inc., and NTCH-WEST TENN, Inc. (collectively, "NTCH"); Panhandle Telecommunication Systems, Inc. ("PTSI"); Plateau Telecommunications, Incorporated ("PTI"), Texas RSA 3 Limited Partnership ("Texas 3 LP"), New Mexico RSA 4 East Limited Partnership ("NM 4 ELP"), and E.N.M.R. Telephone Cooperative ("E.N.M.R.") (collectively, "Plateau"); Punxsutawney Communications, LLC ("Punxsutawney"); RSA 1 Limited Partnership d/b/a Cellular 29 Plus and Iowa RSA 2 Limited Partnership d/b/a Lyrix ("Cellular 29 and Lyrix"); SLO Cellular, Inc. d/b/a Cellular One of San Luis Obispo and Entertainment Unlimited, Inc. ("SLO"); South No. 5 RSA LP d/b/a Brazos Cellular Communications, LTD ("Brazos"); South Slope Cooperative Telephone, Inc. d/b/a South Slope Wireless ("South Slope"); SunCom Wireless, Inc. ("SunCom"); Texas RSA-1 Limited Partnership d/b/a XIT Wireless ("XIT"); and Uintah Basin Electronic Telecommunications d/b/a UBET Wireless ("UBET") (collectively the "Petitioners").

for all Americans will society benefit from the myriad skills and talents of persons with disabilities.

The HLAA is the nation's largest organization for people with hearing loss. Originally founded in 1979 as Self Help for Hard of Hearing People, Inc., HLAA is a non-profit educational membership organization. Today, the HLAA has grown into a leading advocacy organization with 250 chapters and 13 state organizations.² The mission of HLAA is to open the world of communication to people with hearing loss through information, education, support and advocacy.

B. Background on the Waiver Petitions

The above-referenced Petitions request a waiver of Commission Rule 20.19(d)(2). That provision requires that,

each provider of public mobile service must include in their handset offerings at least two handset models for each air interface that comply with §20.19(b)(2) by September 18, 2006 and make available in each retail store owned or operated by the provider all of these handset models for consumers to test in the store.³

Commission Rule 20.19(b)(2) requires that handsets be hearing aid compatible ("HAC") under the "U3T" rating as set forth in the standard document ANSI C63.19-2006, *American National Standard for Methods of Measurement of Compatibility between Wireless Communication Devices and Hearing Aids*.⁴ Wireless carriers were required to provide two HAC handsets meeting ANSI's U3T standard by September 18, 2006.

² HLAA runs through local offices in the following states: California, North Carolina, New Jersey, New York, Florida, Wisconsin, Oregon, Georgia, Texas, Michigan, Minnesota, Washington, and Pennsylvania.

³ 47 C.F.R. § 20.19(d)(2).

⁴ That standard was published on October 8, 2001. A new version was adopted in 2006.

II. THE PETITIONS FAIL TO MEET THE COMMISSION'S WAIVER STANDARD

TDI and HLAA respectfully submit that the above-referenced Petitions do not meet the Commission's waiver standard, and therefore are not eligible for the relief requested. Grant of the Petitions would directly contravene the Commission's goal of enhancing access to communications for persons with disabilities and would not serve the public interest generally.

Section 1.03 of the Commission's Rules provides that the Commission may grant a waiver of its rules only upon a showing of "good cause." Good cause exists only if "special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."⁵

Waiver applicants must plead with particularity the facts and circumstances that support a grant of a waiver.⁶ The Commission must "adhere strictly to its rules unless a party can demonstrate that 'in the public interest the rule should be waived.'"⁷ The Commission must take a "hard look" at applications for waiver⁸ and must consider all relevant factors when determining if good cause exists.⁹ The agency "must explain why deviation better serves the public interest, and articulate the nature of the special circumstances, to prevent discriminatory application and to put future parties on notice as to its operation."¹⁰ The Petitioners have failed to meet the "heavy burden" to show that the waivers they seek are justified.¹¹

⁵ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C.Cir. 1990).

⁶ *Rio Grande Family Radio Fellowship, Inc., v. FCC*, 406 F.2d 664, 666 (D.C. Cir. 1968) ("When an applicant seeks a waiver of a rule, it must plead with particularity the facts and circumstances which warrant such action.").

⁷ *FPC v. Texaco, Inc.*, 377 U.S. 33, 39 (1964).

⁸ *Id.*

⁹ *Citizens to Preserve Overton Park, Inc., v. Volpe*, 401 U.S. 402, 416 (1971).

¹⁰ *Northeast Cellular*, 897 F.2d 1164, 1166.

¹¹ See, e.g., *In re Provision of Improved Telecommunications Relay Services & Speech-to-Speech Services for Individuals with Hearing & Speech Disabilities, Order on Reconsideration*, 18 FCC Rcd 4761, 4764 (2003) ("The party petitioning the Commission for a waiver bears the heavy burden of showing good cause: '[an] applicant [for a waiver] faces a high hurdle even at the starting gate.'" (quoting *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969))).

The Petitions rely entirely on unsupported, generalized allegations. The Petitions neglect to plead, and necessarily fail to prove, special circumstances or facts that merit waivers of the Commission's rules, erroneously relying on broad assertions and unsupported conclusions concerning the status and availability of HAC handsets. Nearly all of the Petitions base their requests on the same unsupported assertion that no HAC handsets are available to these wireless carriers.¹² However, the Petitions provide little factual support for these assertions. Such reliance on such a wholly unsupported justification as grounds for a waiver is inadequate and justifies denial of the Petitions. The Petitioners state that because they have had difficulty in obtaining HAC handsets, a waiver of the Commission's rules would be "in the public interest." However, a statement that a waiver of Commission rules is in the public interest based simply on the underlying reason why a waiver is sought, cannot support the evasion of FCC regulation. The Petitioners take no account of other public interests served by the rules, or the consequences of a grant of a waiver of those rules to persons with hearing loss.

Rather than providing particular circumstances that could warrant a deviation from the requirements of the Commission's HAC rules, the Petitioners provide little or no explanation and fail to describe the special circumstances that warrant waiving the requirements of the Commission's rules. In fact, a grant of the Petitions on the generalized grounds offered would establish a

¹² See, e.g., Advantage Waiver Petition, at 2; Airadigm Waiver Petition, at 1, 3; Blanca Waiver Petition, at 2; Cellcom Waiver Petition, at 2; BLEW Waiver Petition, at 2-3; Centennial Waiver Petition, at 2; CTC Waiver Petition, at 2; Dobson Waiver Petition, at 2-5; Farmers Waiver Petition, at 2-3; Inland Waiver Petition, at 3; Long Lines Waiver Petition, at 2; i wireless Waiver Petition, at 1; IT&E Waiver Petition, at 4-5; Ramcell of Oregon Waiver Petition, at 2-4; Mid-Tex Waiver Petition, at 1; MTPCS Waiver Petition, at 1-3; Montana Reporters Waiver Petition, at 1; NCR1P Waiver Petition, at 3; NDNC Waiver Petition, at 1, 4; NWMC Waiver Petition, at 1; NTCH Waiver Petition, at 1-3; PTSI Waiver Petition, at 2; Plateau Waiver Petition, at 2; Punxsutawney Waiver Petition, at 2, 4; Cellular 29 and Lyrrix Waiver Petition, at 2; SLO Waiver Petition, at 3; Brazos Waiver Petition, at 2; South Slope Waiver Petition, at 1, 4; SunCom Waiver Petition, at 3-5; XIT Waiver Petition, at 2; UBET Waiver Petition, at 4-7.

precedent under which any wireless carrier might easily circumvent the Commission's HAC and other rules concerning access to persons with disabilities.¹³

Many of the Petitioners state that they are "Tier III" carriers and, as such, have little market power to obtain HAC handsets.¹⁴ At the outset, TDI and HLAA note that the classification of Tier I, II and III wireless carriers was determined for E911 Phase II waiver purposes only. It was not intended by the Commission to relieve wireless carriers of their other regulatory and statutory obligations. Regardless of the fact that the Petitioners are generally small, rural wireless carriers, many of the Petitions admitted that handsets are purchased from distributors, not directly from manufacturers. Thus, while manufacturers may not have provided handsets directly to these carriers, the Petitioners could have obtained HAC handsets through their distributors had they planned ahead. Instead, they waited until the last minute to comply with their obligations under the Commission's rules and, when handsets became unavailable, sought waivers of the HAC rules. In short, by waiting until as late as possible to obtain such HAC handsets, the Petitioners brought this problem upon themselves. The Commission should not reward the Petitioners' lack of diligence and planning by granting waivers. Moreover, the Petitions do not demonstrate why Tier I, Tier II and even hundreds of other Tier III carriers were able to obtain HAC handsets by the deadline, while these particular Petitioners were not.

TDI and HLAA submit that the reason is that other carriers, in contrast to the Petitioners, made compliance with the Commission's rules a priority. Therefore, the vast majority of carriers have fulfilled their obligations under the Commission's rules and did not need to file waiver petitions. TDI and HLAA understand that the relevant handsets were certified by the Commis-

¹³ By seeking waiver of the Commission's HAC deadline, the Petitioners also seek a waiver of the HAC standard associated with that deadline. By implication, the Petitioners seek a waiver of not only the deadline, but also the Commission rule requiring that such HAC handsets meet the U3T rating set forth in ANSI C63.19-2006. Granting these wireless carriers leave to disregard the deadline would implicitly provide them leave to ignore the HAC standard associated with that deadline.

¹⁴ See, e.g., BLEW Waiver Petition, at 2; IT&E Waiver Petition, at 2; NCR1P Waiver Petition at 1.

sion in June 2006, which gave the Petitioners sufficient time to obtain them and have them in place by September, 18, 2006. Clearly, the Commission's phase-in period has given the Petitioners (and other covered entities) sufficient notice and time to reach the various benchmarks. Other carriers, including small and rural carriers, met this deadline. The Petitioners do not explain why they have not.

Because the Petitions neglect to provide an adequate justification for waiver under Section 1.3 of the Commission's rules, these requests must be denied. In the alternative, should the Commission somehow determine that such waivers are in the public interest, TDI and HLAA respectfully request that the Commission address the Petitions on a case-by-case basis, and establish adequate safeguards and limitations appropriate to the amount of time sought by each waiver. In that regard, TDI and HLAA address the Petitions in three groups: 1) short term waivers; 2) medium-term waivers; and 3) long-term (or open ended) waivers.

III. IF THE PETITIONS ARE NOT DENIED, THEY SHOULD BE ADDRESSED ON A CASE-BY-CASE BASIS AND MADE SUBJECT TO CONDITIONS INTENDED TO ENSURE PROMPT COMPLIANCE WITH THE COMMISSION'S RULES

It is axiomatic that the level of relief provided by the Commission to an applicant that seeks a waiver of the Commission's rules will correspond to the marketplace consequences of the relief sought, the precise nature of the relief sought by the waiver request, and the public policy considerations attendant thereto. While the Petitioners all seek waiver of Commission Rule 20.19(d)(2), the period of the requested waiver varies. Should the Commission determine that grant of the relief requested by one or more of the Petitions is in the public interest, TDI and HLAA urge the Commission to ensure that such waivers are narrowly tailored and made on a case-by-case basis.

A. Short-Term Waiver Petitions

While many Petitioners stated that they “expect” to offer HAC handsets by November 2006, a close reading of those Petitions shows that most ask for open-ended, or long-term waivers. Out of thirty of Petitions at issue in this Opposition, only two specifically request short-term relief. Specifically, the following Petitions sought waivers on a short-term basis until:

- October 31, 2006: Leap.¹⁵
- December 1, 2006: Cellcom.¹⁶

Leap argues that its Petition is necessitated by “logistical issues relating to the distribution of handsets to Leap’s retail outlets”¹⁷ and not the result of an inability to obtain HAC handsets. While TDI and HLAA do not concede that Leap should be given a waiver of the Commission’s rules for this reason, we acknowledge that the short-term relief requested is less injurious to the public interest (specifically the interests of the deaf and hard of hearing communities) than the requests made by other carriers if, in fact, Leap is deemed in compliance as of October 31, 2006. TDI and HLAA applaud Leap, in particular, for its announcement that it plans to exceed the Commission’s HAC handset requirements:

Leap has exceeded this requirement and currently offers four such handsets. Likewise, while Leap currently offers one telecoil-compatible handset model, Leap has plans to exceed the Commission’s minimum requirement by offering additional telecoil-compatible handsets later this year. Leap has completed negotiations with a handset manufacturer for a second model that is compatible with telecoil hearing aids, and its introduction of a second telecoil-compatible handset is imminent.¹⁸

TDI and HLAA note that Leap’s Petition demonstrates that wireless carriers, regardless of size or market presence, have the ability to work with distributors and manufacturers in order

¹⁵ See Leap Waiver Petition, at 1

¹⁶ See Cellcom Waiver Petition, at 1.

¹⁷ Leap Waiver Petition, at 2.

¹⁸ Leap Waiver Petition, at 2.

to meet the Commission's HAC handset requirements.¹⁹ TDI and HLAA hope that other wireless carriers make note of Leap's approach to compliance and take similar measures going forward, rather than waiting until the last minute to try to meet the Commission's bare-minimum standards.

Cellcom's Petition, which seeks a waiver until December 1, 2006, is narrower than many other Petitions seeking longer timeframes. Cellcom, like most other Petitioners, asserts that HAC handsets are unavailable from its distributors, but believes that such handsets will be available by the end of November.²⁰ Thus, while TDI and HLAA urge the Commission to deny Cellcom's Petition, the relief CellCom seeks is less problematic than the longer relief sought by other petitioners. Moreover, TDI and HLAA note that CellCom's ability to obtain HAC handsets by the end of November puts into question the need for longer waivers sought by other carriers.

B. Medium-Term Waiver Petitions

The second set of Petitions that TDI and HLAA categorize as seeking "medium-term" waivers is comprised of a larger group of filers. In all, seventeen Petitions were filed seeking temporary waiver of Commission Rule 20.19(d)(2) for three to four months.

Specifically, the following Petitioners seek a waiver of the Commission's rules until:

- December 18, 2006: Dobson.²¹
- December 31, 2006: Advantage;²² BLEW;²³ Inland;²⁴ Ramcell of Oregon;²⁵

NCR1P (or until such time as it is able to offer two HAC handset models, which-

¹⁹ In contrast, the Petition filed by Buffalo-Lake Erie Wireless Systems Co., LLC ("BLEW") states that carrier was able to obtain one HAC handset that meets the Commission's HAC standards. See BLEW Waiver Petition, at 1 ("BLEW will offer one compliant handset, but as a result of manufacturer delays and demand for compliant handsets by other wireless carriers, BLEW will be unable to offer a second compliant handset by the September 18th deadline.").

²⁰ See Cellcom Waiver Petition, at 2.

²¹ See Dobson Waiver Petition, at 1, 5.

²² See Advantage Waiver Petition, at 1.

²³ See BLEW Waiver Petition, at 1.

ever is earlier);²⁶ and Punxsutawney (or until such time as it is able to offer two HAC handset models, whichever is earlier).²⁷

- January 1, 2007: Long Lines;²⁸ Mid-Tex;²⁹ NWMC;³⁰ NTCH;³¹ PTSI;³² Plateau;³³ Cellular 29 and Lyrix;³⁴ Brazos;³⁵ and XIT.³⁶
- January 18, 2007: SunCom.³⁷

The relief sought by these Petitions is contrary to the public interest. As discussed previously, the Petitions neglect to provide an adequate justification for waiver under Section 1.3 of the Commission's rules, and grant of the Petitions will not be in the public interest. Therefore, the Petitions should be denied. If the Commission nevertheless grants the Petitions, the grants should be conditioned to require the Petitioner to report to the Commission, on a monthly basis, the specific actions it has taken in order to ensure compliance with the rule by the date set forth in its Petition, as well as the most up-to-date delivery status of the HAC handsets. Each Petitioner should also inform the Commission when it has obtained and provided to consumers one HAC handset that meets the Commission's HAC standards under 20.19(b)(2). Reporting should

²⁴ See Inland Waiver Petition, at 5.

²⁵ See Ramcell of Oregon Waiver Petition, at 2.

²⁶ See NCR1P Waiver Petition, at 2.

²⁷ See Punxsutawney Waiver Petition, at 2.

²⁸ See Long Lines Waiver Petition, at 1.

²⁹ See Mid-Tex Waiver Petition, at 1.

³⁰ See NWMC Waiver Petition, at 1.

³¹ See NTCH Waiver Petition, at 1.

³² See PTSI Waiver Petition, at 1.

³³ See Plateau Waiver Petition, at 1.

³⁴ See Cellular 29 and Lyrix Waiver Petition, at 1.

³⁵ See Brazos Waiver Petition, at 1.

³⁶ See XIT Waiver Petition, at 1.

³⁷ See SunCom Waiver Petition, at 1.

continue on a monthly basis until the Petitioners are in compliance with Commission Rule 20.19(d)(2). At that time, the Petitioners should be required to promptly inform the Commission that they have met their HAC obligations.

Such a reporting requirement would ensure that the Commission and the public are notified of the status of the carrier's efforts. It would also motivate the carriers to take actions to make HAC handsets available to the public. The Commission required such reporting with respect to the VoIP E911 customer affirmative acknowledgement requirements last year. TDI and HLAA expect that a similar program would ensure quicker and more efficient fulfillment of the Commission's rules on the part of the Petitioners.

C. Long-Term Waiver Petitions

The most problematic set of Petitions seek long-term or open-ended waivers of Commission Rule 20.19(d)(2). Fourteen such Petitions were filed. Specifically, the following Petitioners seek a waiver of the Commission's rules until:

- June 18, 2007: Centennial.³⁸
- September 18, 2007: IT&E;³⁹ NDNC;⁴⁰ SLO;⁴¹ South Slope;⁴² and UBET.⁴³
- Open-Ended/No Date Specified: Airadigm;⁴⁴ Blanca;⁴⁵ CTC;⁴⁶ Farmers;⁴⁷ i wireless;⁴⁸ Kyocera;⁴⁹ Chinook;⁵⁰ and the Montana Reporters.⁵¹

³⁸ See Centennial Waiver Petition, at 1.

³⁹ See IT&E Waiver Petition, at 1.

⁴⁰ See NDNC Waiver Petition, at 1.

⁴¹ See SLO Waiver Petition, at 1.

⁴² See South Slope Waiver Petition, at 1.

⁴³ See UBET Waiver Petition, at 1.

⁴⁴ See Airadigm Waiver Petition, at 1.

⁴⁵ See Blanca Waiver Petition, at 2.

⁴⁶ See CTC Waiver Petition, at 2.

⁴⁷ See Farmers Waiver Petition, at 2-3.

TDI and HLAA strongly opposes the grant of long-term or open ended waivers. Given the level of performance of other wireless carriers, as well as the more limited requests made by the short-term and medium-term Petitioners in this proceeding, there is no justification for allowing these Petitioners to evade their obligations. Should the Commission grant long-term or open-ended waivers, the Petitioners will have no incentive to ever comply with the Commission's HAC handset requirements, which will necessarily lead to wireless carriers not providing HAC handsets to persons with hearing loss, which will effectively negate the level playing field that such regulations attempt to create. As such, TDI and HLAA urge the Commission to deny these Petitions. Should the Commission deem waivers of Commission Rule 20.19(d)(2) to be in the public interest, TDI and HLAA request that the Commission grant the Petitions on a very limited basis. Specifically, the Commission should grant a temporary waiver until January 1, 2007, with the attendant reporting obligations TDI and HLAA recommended above for the medium-term Petitions.

Should any Petitioner fail to meet the mandates of Rule 20.19 by that date, the Commission should take appropriate enforcement action, including the levy of fines or imposing other penalties. Carriers should not be permitted to avoid their HAC handset obligations because they procrastinated on compliance of the Commission's rules. Granting these Petitions would be tantamount to rewarding the Petitioners for their short-sighted approach to complying with the Commission's rules.

⁴⁸ See i wireless Waiver Petition, at 1, 4.

⁴⁹ See Kyocera Waiver Petition, at 1. Kyocera's Petition seeks a waiver of Commission Rule 20.19(d)(1), as the company is a handset manufacturer, not a service provider. While Kyocera does not provide telecommunications services directly to end users, TDI and HLAA similarly oppose Kyocera's Petition as that company has similarly failed to make HAC handsets available to service providers by the regulatory deadline.

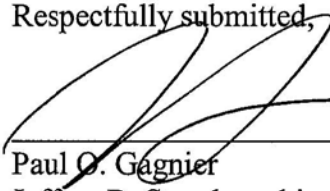
⁵⁰ See Chinook Waiver Petition, at 1.

⁵¹ See Montana Reporters Waiver Petition, at 2.

IV. CONCLUSION

TDI and HLAA assert that grant of the Petitions is not in the public interest. The Petitioners have not demonstrated why they, unlike all other wireless carriers, have been unable to meet the September 18, 2006 deadline of Rule 20.19(d)(2). The Petitioners fail to show why handset distributors were able to provide HAC handsets to other carriers, but not to them. Clearly, the Petitioners ignored the HAC compliance rules until the eleventh hour and belatedly realized that handsets would not be made available to them on short notice. Such short-sightedness does not justify waiving the Commission's rules. Should the Commission determine that grant of the Petitions is warranted, TDI and HLAA once again emphasize and respectfully request that the Commission address them on a case-by-case basis in order to ensure that any relief granted by the Commission is narrowly tailored and appropriately limited in scope to lead to prompt and full implementation of the Commission's rules. Any waiver granted should be only for a limited time, and in no case later than January 1, 2007, and carriers should be subject to monthly reporting requirements to ensure that the wireless carriers are diligently working to obtain and provide HAC handsets to the public.

Respectfully submitted,



Paul O. Gagnier
Jeffrey R. Strenkowski ✓
Bingham McCutchen LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
Telephone: (202) 373-6000
Facsimile: (202) 373-6001

Attorneys for Telecommunications for the
Deaf and Hard of Hearing, Inc.

Dated: November 6, 2006